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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,345	04/09/2004	Robert J. Antonellis	TO592.70000/US00	1000
23628 7590 07/10/2008 WOLF GREENFIELD & SACKS, P.C. 600 ATLANTIC AVENUE BOSTON, MA 02210-2206				
EXAMINER				
FADOK, MARK A				
ART UNIT		PAPER NUMBER		
3625				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/821,345

**Applicant(s)**

ANTONELLIS, ROBERT J.

**Examiner**

MARK FADOK

**Art Unit**

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) 2-4, 9, 14-22, 35-61 and 63-675 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 30-34, 76, 150-153, 183, 184, 226-235, 238-245 and 247-264 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-848)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

Continuation of Disposition of Claims: Claims pending in the application are 2-4,9,14-22,30-61,63-77,81,85-97,114-121,123,128,133-147,150-185,189,193-211,218-235 and 239-264.

***Response to Amendment***

The examiner is in receipt of applicant's response to office action mailed 10/16/2007, which was received 4/15/2008. Acknowledgement is made to the amendment to claims 30-34,76,150-153,183,184,226-235,238-245, the cancellation of claims 1,5-8,10-13,23-29,62,78-88,82-84,98-113,122,124-127,129-132,148,149,186-188,190-192,212-217,236-237 and the addition of claims 247-264. The applicant's amendment and remarks have been carefully considered and were persuasive, however after further search and consideration the following new ground of rejection necessitated by amendment follows.

**Examiner's Note**

Examiner has cited particular columns and line numbers or figures in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 30-34,76,150-153,183,184,226-235,238-245,247-264 rejected under 35 U.S.C. 103(a) as being unpatentable over Haken (US PG PUG 2003/0125963) in view of Visual Control Room (VCR) (a collection of articles and web pages listed as VCR1-13 on PTO 892) and further in view of Borton (US PG PUB 2002/0188492).**

In regards to claims 247,253,259 Haken discloses an order delivery management system, comprising:

at least one computer; and

an input device configured to receive orders and transmit the orders to the at least one computer, wherein the at least one computer comprises software which, when executed (para 0006), performs

(a) receiving at least one order from the input device (para 0006),

(b) continuously tracking locations of one or more delivery persons and/or one or more vehicles associated with the one or more delivery persons and estimating availability of the one or more delivery persons (para 0006),

(c) evaluating the estimated availability and, in response, determining an optimized utilization of the one or more delivery person, based on a set of criteria, for a

delivery of the at least one order, wherein the determination comprises matching the at least one order with a delivery person selected in accordance with a current optimized utilization of the one or more delivery persons (para 0022, 0027),

Haken teaches optimized routing of delivery personnel, but does not specifically mention that a route can be reassigned to a different delivery driver. Visual Control Room (VCR) teaches evaluating delivery schedules and if conflicts arise rescheduling a delivery with a different driver (Visual Control Room13, page 2, reschedule). It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in Hakin the means for rescheduling drivers, since this capability provides for more efficient utilization of the personnel and can reduce overtime pay.

Hakin teaches sending information notification to a driver via PDA (para 0007 and 0008), but does not specifically mention that information is provided notifying the driver that the order is ready. Borton teaches providing clustered information on a monitor electronically that indicated the status of the orders that are assigned to the particular driver (para 0085). It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in the combination of Hakin and VCR, providing information regarding the status of the product in real time, because this will assure that information regarding a decline to take an order by a driver is reported ASAP and more efficient scheduling of the preparation of the order can be rescheduled.

**In regards to claims 248 and 254**, the combination of Haken, VCR and Borton teaches continuously tracking status of the orders and estimating order completion

times, wherein the estimated order completion times are used in matching the at least one order with the delivery person (Haken, para 0027 and Borton, para 0093)).

**In regards to claims 249,255,261**, the combination of Haken, VCR and Borton teaches wherein the one or more delivery persons comprise one or more delivery drivers (Hakin, FIG 2).

**In regards to claims 250,256,262**, the combination of Haken, VCR and Borton teaches 250,256,262 analyzing the locations of the one or more delivery persons to deduce traffic conditions and adjust preparation of pending orders (VCR 14, revised schedules due to traffic conditions, Borton teaches the adjusting of a pending order due to availability of a driver).

**In regards to claims 251,257,263**, the combination of Haken, VCR and Borton teaches wherein the locations of the one or more delivery persons are tracked using a global positioning system (Haken, para 0003).

**In regards to claims 30**, the combination of Haken, VCR and Borton teaches displaying a series of hierarchal menus on a visual display (Borton, Para 0092).

**In regards to claim 31**, the combination of Haken, VCR and Borton teaches determining tracking availability of at least one limiting resource necessary to fulfill said at least one order (Haken, para 0006).

**In regards to claims 32,151**, the combination of Haken, VCR and Borton teaches referring to a look-up table comprising information that associates different types of limiting resources with different types of orders (Borton para 0089 and 0092).

**In regards to claims 33,152**, the combination of Haken, VCR and Borton teaches determining a set of component and determining tracking availability of at least one limiting resource necessary to fulfill each component of said order set of components (Haken, para 0021, 0027 and Borton, para 0093).

**In regards to claim 76,184** the combination of Haken, VCR and Borton teaches at least one notification of an assigned, an un-assigned and a re-assigned order, to a delivery driver (Haken, para 0032, Borton para).

**In regards to claims 252,258,264**, the combination of Haken, VCR and Borton teaches tracking traveling speed of the one or more delivery persons and/or the one or more vehicles (VCR01, velocity of vehicle).



**In regards to claim 183**, the combination of Haken, VCR and Borton teaches providing the at least one notification comprises maximizing productivity of the selected delivery person (VCR). It is noted that little patentable weight is given to this feature since it does not limit the claim with any actionable feature and only suggests a benefit.

**In regards to claims 226,231,238**, the combination of Haken, VCR and Borton teaches predicting future availability of resources (Borton, para 0091).

**In regards to claims 227,232,240**, the combination of Haken, VCR and Borton teaches 227,232,240 tracking a processing status of said at least one order (Haken, para 0032).

**In regards to claims 228,241**, the combination of Haken, VCR and Borton teaches determining a priority value of said at least one order (Borton, para 0083).

**In regards to claims 229,242**, the combination of Haken, VCR and Borton teaches adjusting the priority value of said at least one order (Borton para 0083).

**In regards to claims 230,243,235**, the combination of Haken, VCR and Borton teaches halting fulfillment of said at least one order (Borton, para 0086, 0087).

**In regards to claims 50,241,248,260**, the combination of Haken, VCR and Borton teaches determining availability of at least one limiting resource necessary to fulfill said orders Haken, para 0027).

**In regards to claims 239,244**, the combination of Haken, VCR and Borton teaches optimizing allocation of resources to processing of said at least one order (VCR13).

**In regards to claims 233,234**, the combination of Haken, VCR and Borton teaches determining a priority value of said at least one order (Borton, para 0083).

**In regards to claim 245**, the combination of Haken, VCR and Borton teaches perform adjusting resources allocated to an order different from said at least one order after processing of said at least one order has commenced (VCR13 and Borton para 0085).

### ***Response to Arguments***

Applicant's arguments with respect to claims 30-34, 76,150-153,183,184,226-235,238-245,247-264 have been considered but are moot in view of the new ground(s) of rejection.

### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **571.272.6755**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Jeffrey Smith** can be reached on **571.272.6763**.

Any response to this action should be mailed to:

***Commissioner for Patents***

***P.O. Box 1450***

Alexandria, Va. 22313-1450

or faxed to:

**571-273-8300** [Official communications; including

After Final communications labeled

"Box AF"]

For general questions the receptionist can be reached at

571.272.3600

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Mark Fadok/

Primary Examiner, Art Unit 3625